



United States
**Office of
Personnel Management**

Washington, DC 20415-0001

CJR 4/28/95

In Reply Refer To:

Your Reference:

Cynthia L Johnson, Director
Cash Management Policy and Planning Division
Financial Management Service
U.S. Department of the Treasury
Room 420, 401 14th St. SW
Washington, D.C. 20227

Dear Ms. Johnson,

In reviewing the Notice of Proposed Rulemaking for 31 CFR Part 210, the Retirement and Insurance Service at the Office of Personnel Management, has the following comments:

Section 210.6 (g) Agencies

Presently, we are not able to do a reversal on an individual payment. Can Treasury or the FRB effect individual reversals for an agency? If not, a valuable tool for retrieving misdirected payments is not available to us and we are forced to continue to call and write letters to the financial institution (FI), which is not required to respond to us. What we are faced with is replacing the missed payment of our beneficiary as soon as possible while trying to recover the payment from the account holder who erroneously received the payment.

The fact that an account or routing transit number was entered incorrectly (human error) should not give either the FI or the recipient of the money the right to keep a payment that was misdirected. With the implementation of EFT 99, where various non-written means are employed to enroll federal recipients, we run the risk of increased incorrect account or RTNs, either on the part of the person giving us information or on the part of the person key entering the information. This is the basic worst case scenario that beneficiaries cite for not wanting electronic payments - the fact that something could happen in the transmission and they would never see their payment. We should therefore be able to offer reasonable assurance that non-receipts and particularly misdirected payments, will be remedied as quickly as possible. To do this, we will need the support and cooperation from the Treasury and the financial institutions to resolve these situations quickly and amicably.

4-4 #004

Section 210.7

Federal Reserve Banks

This section talks about the issue of the settlement date when that date falls on a Saturday, which is not considered a business day by the Federal Reserve Bank but is considered a business day by the United States Postal Service (USPS). According to 5 USC 8345, the Civil Service annuity benefit is payable "on the first business day of the month after the month or period for which it has accrued". Thus, legally, OPM cannot request another payment date on our monthly payments when the first is on a Saturday since for check delivery, this date is valid. We send our files in time for the FRB to get the payments to the banks by the first of the month, even when the first is a Saturday. The FRB usually transmits their files to the FIs about two days before the payment date. Thus, the payment is physically at the FI on Saturday. It is only because Treasury will not release the funds to the FIs until the first business day following Saturday, that many FIs will not post the payment to the accounts on Saturday, although most banks have Saturday office hours. We think the problem could be resolved if the Treasury would release funds for payment on a Saturday.

Section 210.10

RDFI liability.

(d) Time limits.

We would like Treasury to clarify how they plan to implement the six year limit on reclamations. Your rule directs agencies to limit the reclamation to the last six years on claims where the death occurred more than six years from the date of notice. However, the rule also provides for withdrawal of an amount up to the full reclamation amount if the money is still in the account. Our experience with your limited payability rule on check reclamations is that your system will automatically reject all payments for dates that exceed the liability date, therefore, if you set up your system in like manner for the six year reclamation limit, you will not know the full amount due on the reclamation. Moreover, agencies will not be aware of the remaining amounts in the account and will have to implement a more costly debt collection procedure based on the name of the last withdrawer. We suggest a method whereby an agency would still send you the full reclamation dates and amounts which exceed the six year limit. It would be up to the Treasury to probe the account for the full amount before deciding on whether to limit the reclamation to six years. Otherwise, an agency receivable will be set up where we possibly would not need one and we would have to go through our more costly debt collection procedures to recoup payments that could easily have been reclaimed with the reclamation action.

The provision that agencies initiate a reclamation within 120 days of the notice of death is not reasonable considering Treasury rejects many of our automated requests due to system problems. We have a significant number of reclamation requests

that never get processed to Treasury systems. It may be awhile before we are alerted to the fact that the request did not process. We then have to do a request through the PC ACT software in which we have to send diskettes back and forth through the mail. This is not very time efficient and could put us over the 120 day imperative.

A second concern with the 120 day mandate is how Treasury plans to determine whether an agency has acted within 120 days of the notice of death. Will agencies be required to provide evidence of the notice and if so, in what manner? This would be more burdensome on the agencies since many of our death reports are by phone calls.

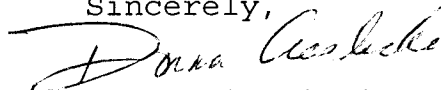
Our agency would also like to suggest that two policy issues be considered for inclusion in the reclamation process:

First, when Treasury receives a TFS 133 back from the financial institution and the FI indicates that the executor of the estate was the last withdrawer, Treasury should immediately debit the bank's federal reserve since the bank would have known about the death upon doing business with the executor and therefore, should not have allowed the money to be withdrawn.

Second, the Treasury document, TFS 133, which is sent to the financial institution, should be revised to collect the SSN of the last withdrawer. Particularly in light of the debt collection actions, it would be of great assistance to have an SSN in order to conduct further collection activities.

We appreciate the opportunity to comment on this rule and look forward to further discussions before the final rule is put into place.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donna Cieslicki".

Donna Cieslicki
Treasury Liaison Officer
Retirement and Insurance Service